

REGULAR MEETING  
JULY 9, 2014

A Regular Meeting of the Town Board of the Town of Somerset, County of Niagara and the State of New York was held at the Town Hall, 8700 Haight Road, Barker, New York on the 9<sup>th</sup> day of July 2014.

Present: Daniel M. Engert ----- Supervisor  
Randall J. Wayner ----- Councilman  
Gary R. Alt ----- Councilman  
Robin R. Jansen ----- Councilman  
Jeffrey M. Dewart ----- Councilman  
Tracy L. Carmer ----- Clerk  
Michael M. Flint ----- Supt. of Highways  
Melvin H. Denny ----- Supt of Water/Sewer/Grounds  
Mindy Austin ----- Confidential Asst. to the Supervisor  
Michael J. Norris ----- Counsel

Attended by: Code Enforcement Officers Remington and Lee, Barker Fire Department President Bob Wendler, and 10 residents

Supervisor Engert called the meeting to order at 6:30PM with the Pledge to the Flag and a prayer for guidance.

**PUBLIC HEARING – PEDDLER, HAWKING AND SOLICITING PROPOSED LOCAL LAW**

Notice of said hearing was duly published in the Lockport Union-Sun & Journal on June 19, 2014 with same notice being posted on June 16, 2014 at the Town Hall and on the Town website.

Supervisor Engert opened the public hearing at 6:31PM.  
Clerk Carmer read notice of hearing.  
Supervisor Engert asked if anyone had comments on the law.  
With no one wishing to be heard, Supervisor Engert closed the hearing at 6:34PM.

**REGULAR MEETING**

Supervisor Engert called the regular meeting to order at 7:05PM.

RESOLUTION 86-2014

**APPROVAL OF THE MINUTES**

On a motion of Councilman Wayner, seconded by Councilman Dewart, the following resolution was

ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart  
Nays 0

Resolved the minutes of the previous meetings are approved as submitted.

RESOLUTION 87-2014

**APPROVAL OF THE SUPERVISOR'S MONTHLY REPORT**

On a motion of Councilman Jansen, seconded by Councilman Alt, the following resolution was

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ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart  
Nays 0

Resolved the Supervisor's Monthly report be accepted as submitted.

MONTHLY REPORTS RECEIVED AND FILED:

Code Enforcement Officer  
Dog Control Officer  
Police Report

COMMUNICATIONS:

Clerk Carmer informed the board that a communication was received from Modern Corporation notifying the town that our rates will be increasing effective July 1, 2014. Supervisor Engert stated that the matter has been referred to counsel.

Clerk Carmer stated that the quarterly communication was received from CWM Chemical Services listing minor modifications to facility permits.

Clerk Carmer stated that Barker Central School sent a letter informing the town of the elected officials for this school year, along with the school calendar.

Supervisor Engert stated that a communication was received from Torrey Farms. Superintendent Denny informed the board that they are requesting to increase their water consumption from 25,000 gallons/day to 150,000/day for a new barn that will house 3,000 cows. He asked Maureen Torrey to have their engineers advise us of the specifics so our engineers can run it through our water model to see if we can supply that amount. Any pipe size over 2" has to be approved by our engineer as per our code.

Supervisor Engert stated that he received a letter from the Public Service Commission asking for our assistance to be prompt to provide our mapping, etc. when their field agent comes out to perform an assessment of our town.

ENH UPDATE

Supervisor Engert updated the board on the situation of the Eastern Niagara Hospital repurposing. The emergency department will not be a true emergency department and patients requiring surgery will be sent to another hospital.

HEALTH CARE CONSORTIUM

Supervisor Engert stated that he believes we have a potential of 100% participation in the feasibility study. He hopes this will lead to more shared service opportunities.

FIRE PROTECTION DISTRICT EXPANSION BILL

The bill has passed the Assembly and Senate, and is awaiting a signature from Governor Cuomo.



delivery.

**§ 139-3. Exemptions.**

Nothing in this chapter shall apply to sales conducted pursuant to statutory requirement or by order of court, to any person selling personal property at wholesale to dealers in such articles, to merchants having an established permanent place of business within the Town or their employees selling or soliciting from that place of business, or to the peddling of meats, fish, fruit and similar produce by farmers and persons who produce such commodities, or to dealers in milk, baked goods, heating oil and daily newspapers, to any honorably discharged member of the armed forces of the United States who has produced a license as provided by the General Business Law of the State of New York, or to persons soliciting or collecting for any bona fide charitable organization or for persons soliciting, selling or collecting for service, school or youth groups. This chapter shall not apply so as unlawfully to interfere with interstate commerce.

**§ 139-4. License required.**

It shall be unlawful for any person, within the territorial limits of the Town of Somerset, to act as a hawker, peddler or solicitor as herein defined without first having obtained, and having in force and effect, a license to conduct the activity.

**§ 139-5. Application for license.**

Every applicant for a license as herein provided shall submit to the Town Clerk a written application, under affidavit, setting forth the following information, to wit: that he or she has never been convicted of a felony or misdemeanor (or if so, giving the details); a detailed statement of the particular business, trade or occupation or purpose for which the license is requested; the number and kind and license numbers of vehicles, if any, to be used by the applicant in carrying on the business for which the license is requested; the kinds of goods, wares and merchandise he desires to sell or the kind of service he desires to render; the name, address and age of the applicant; the name and address of the person, firm or corporation he represents; the name and addresses of all partners, of a partnership; the names and addresses of a person upon whom a legal notice may be served; two photographs of the applicant, two inches by two inches in size, taken within 30 days prior to the date of filing of the application, full face on a white background; two business references located in the County of Niagara, State of New York or, in lieu thereof, such other evidence of the character and business responsibility of the applicant; and such other information as may be required by the Town Clerk.

**§ 139-6. License.**

Upon the filing of the application, as provided in the preceding section, the Town Clerk shall, upon her approval of such application, issue to the applicant a license as provided in § 139-4, signed by the Town Clerk. Except as hereinafter provided, no licenses shall be refused except for a specific reason and for the protection of public safety, health, morals, or general welfare. Conviction by the applicant of a crime involving fraud,

misrepresentation, a false statement, theft, assault, any crime of violence or of moral turpitude, or a conviction of violating a peddling or soliciting ordinance or law, or an incomplete application shall be grounds for refusal. A license shall not be assignable. Any holder of such license who permits it to be used by any other person, and any person who uses such license granted to any other person, shall be guilty of a violation of this chapter. Such license shall automatically expire on January 1 following the date of issuance of such license, but such license may provide for an earlier expiration date corresponding to the termination of the activity. No applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six months shall have elapsed since the last previous rejection or revocation, unless he or she can show that the reason for such rejection or revocation no longer exists. Every licensee, while exercising his license, shall carry the license with him and shall exhibit the same upon demand to any police officer or citizen.

**139-7. License fees.**

The license fee to hawkers, peddlers or solicitors shall be as follows: \$150.00 or such other fee as shall be established by the Town Board by resolution from time to time.

**§ 139-8. Employees/Agents of Principals.**

A separate license shall be required for each:

- a. Each person or entity owing or sponsoring the Hawking, Peddling or Soliciting activity.
- b. Each person engaging in the activity in the Town and each person operating a vehicle in support of such activity.

**§ 139-9. Name and address on vehicle.**

Every vehicle used in support of hawking, peddling or soliciting shall have the name of the licensee and his address plainly, distinctly and legibly displayed in letters and figures at least two inches in height in a conspicuous place on the outside of the vehicle.

**§ 139-10. Refusal or revocation of license.**

Upon the refusal of the Town Clerk to issue a license to any applicant or upon the determination of the Town Board that any license should be revoked, the procedure prescribed in §137 of the Town Law shall be complied with. When a license shall be revoked, no refund of any unearned portion of the license fee shall be made. Notice of such revocation and the reason wherefore in writing shall be served by the Town Clerk upon the person named in the application, and a copy of such notice shall be filed with the Town Clerk. Violation of any provision of this law shall constitute grounds for revocation of a license.

**§ 139-11. Restrictions.**

A licensed hawker, peddler or solicitor shall:

- A. Not falsely or fraudulently misrepresent the quantity or quality of any article offered for sale; or offer for sale any unwholesome, tainted or diseased provisions or merchandise.
- B. Keep the vehicles and receptacles used by him in a clean and sanitary condition and the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects.
- C. Not stand or permit the vehicle used by him to stand in one place in any public place or street for more than 10 minutes, or in front of any premises for any time if the owner or any lessee of the premises objects.
- D. Not sell any confectionery or ice cream within 250 feet of any school between the hours of 8:00 a.m. and 4:00 p.m. on school days.
- E. Not permit any vehicle used by him to stop or remain on any crosswalk.
- F. Not create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.
- G. Not blow a horn or use any other noisy device to attract public attention to his wares, or shout or cry out his wares.
- H. Not enter upon the property of any person or entity which displays a sign which states "No Trespassing," "No Soliciting," or "No Peddling" or any other message clearly indicating that solicitors, hawkers or peddlers are not welcome upon the premises.
- I. Solicit only Monday through Saturday, excluding Sundays and holidays, and only between the hours of 9:00 am to 5:00pm.

**§ 139-12. Orders.**

All orders taken by a licensed solicitor who demands, accepts or receives payment or deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser at the time the deposit of money is paid to the solicitor.

**§ 139-13. Records.**

It shall be the duty of the Town Clerk to keep a record of all applications and of all licenses granted under the provisions of this chapter, giving the number and date of each license, the name and residence of the person licensed, the amount of the license fee paid and also the date of revocation of all licenses revoked.

**§ 139-14. BACKGROUND CHECK.**

By signing the application the hawker, peddler or solicitor shall consent to a background check by the Town Clerk, her designee or a law enforcement agency or a person on behalf of the Town. In addition to the application fee the applicant shall pay with the application the actual cost of such background check as determined from time to time by the Town Board.

Any person who shall violate any provision of this law shall be guilty of a violation and shall be punished by a fine not to exceed \$250.00 or by imprisonment of up to 15 days or by both such fine and imprisonment.

#### WEBSITE AUTOMATED FORM SUBMISSION

Supervisor Engert stated that we are making an effort to change our online forms to allow them to be submitted through our website to streamline the process and make it easier for our constituents. Supervisor Engert, Councilman Wayner and Clerk Carmer watched a demonstration a couple weeks ago with SeamlessDocs. The company can also set us up to accept payments through our current vendor, and integrate the completed forms into our software to avoid duplicate work.

Clerk Carmer has checked into a couple of other companies to get quotes so we can compare prices. The two companies that are being looked at are not as comprehensive as SeamlessDocs.

Councilman Jansen asked if the forms can be submitted on a tablet or mobile phone since many people don't have computers anymore.

Supervisor Engert stated that he will check into that.

#### RESOLUTION 89-2014

##### **STANDARD WORK DAY CALENDAR**

Supervisor Engert read the resolution.

On a motion of Councilman Alt, seconded by Councilman Dewart, the following resolution was

ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart

Nays 0

Resolved the work days for employees based on time keeping system records or record of activities is established as reported. Clerk Carmer will report this to the NYS Retirement System and post it on our website and at the town hall. (Resolution added to minutes as an attachment)

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#### RESOLUTION 90-2014

##### **AUDIT OF CLAIMS**

On a motion of Councilman Wayner, seconded by Councilman Jansen, the following resolution was

ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart

Nays 0

Resolved that the bills have been reviewed by the Town Board and are authorized for payment in the following amounts:

General Fund	No. 211 through No. 242	\$ 40,312.01
Highway Fund	No. 62 through No. 67	\$ 5,635.04
Sewer Fund	No. 59 through No. 71	\$ 3,472.53
Water Fund	No. 49 through No. 59	\$ 32,847.95

**PRIVILEGE OF FLOOR**

Pete VanWagoner asked the board to submit Form TE-9 to have the speed on West Somerset Road near Hosmer Road studied. He stated that a Speed Zone Ahead sign is missing, and the sign that is there is very close to the actual Speed Limit sign.

Stephanie Stoloski stated that drivers go very fast by her house and she is located close to the corner and many kids play and ride bikes in that area.

Supervisor Engert stated that we will enhance the patrols in that area.

RESOLUTION 91-2014

**SPEED ZONE STUDY ON WEST SOMERSET ROAD**

On a motion of Councilman Alt, seconded by Councilman Jansen, the following resolution was ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart

Nays 0

Resolved that Supervisor Engert is directed to work with Attorney Norris and submit necessary paperwork to request a speed zone study for West Somerset Road in the Town of Somerset.

James Hoffman voiced his continued frustration over cleaning up Somerset Corners. He pointed out that our code defines two or more abandoned vehicles as a junk yard, and there are two abandoned vehicles there. He also asked about Kenyon's gas station.

Supervisor Engert stated that Mr. Kenyon made a commitment to fix the roof. He plans to sell the property.

Dale Howard applauded the constables for checking on the park at the end of Quaker Road. He asked if they can patrol after 9:00PM when violators come back.

Supervisor Engert stated that we have had an increase amount of mischief occurring and we are investigating getting cameras placed at the Town Park.

Dale stated that when we look at purchasing cameras for the Town Park that we should consider getting cameras that can be directly linked to the constable's phones.

Herb Linderman asked if we are protected against Equate coming to Somerset.

Supervisor Engert stated that we will undertake a study of our local law.

James Hoffman suggested that we get both sides of the story before we act on it.

RESOLUTION 92-2014

**EXECUTIVE SESSION**

On a motion of Councilman Dewart, seconded by Councilman Jansen, the following resolution was



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ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart  
Nays 0

Resolved to enter into Executive Session to discuss personnel matters of two particular people at 7:11PM.

RESOLUTION 93-2014

**RETURN TO REGULAR SESSION**

On a motion of Councilman Jansen, seconded by Councilman Dewart, the following resolution was

ADOPTED Ayes 5 Engert, Wayner, Alt, Jansen, Dewart  
Nays 0

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Resolved to return to Regular Session at 7:50PM.

On a motion of Councilman Alt, seconded by Councilman Dewart, the meeting adjourned at 7:50P.M. subject to the Call of the Clerk. Carried unanimously.

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Tracy L. Carmer, RMC  
Town Clerk